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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/441,191	11/15/1999	DANIEL P. ORAN		3980
25181	7590	02/17/2004	EXAMINER	
FOLEY HOAG, LLP			CHAMPAGNE, DONALD	
PATENT GROUP, WORLD TRADE CENTER WEST			ART UNIT	PAPER NUMBER
155 SEAPORT BLVD			3622	18
BOSTON, MA 02110			DATE MAILED: 02/17/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/441,191	ORAN, DANIEL P.
Examiner	Art Unit	
Donald L. Champagne	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 December 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-8 and 10-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-8 and 10-20 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 15 November 1999 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Withdrawal Allowable Matter

1. An Office review has concluded that claims 1-8 and 10-20 indicated to be allowable in the last Office action are not allowable for reasons given in the following non-final rejection. This new rejection is similar to that in the Office action mailed on 9 October 2002 (Paper No. 13), with the addition of a newly discovered opt-out feature in reference Fig. 3c; see the last clause in para. 5 below.

Claim Rejections - 35 USC § 102 and 35 USC § 103

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 7, 8, 11, 14 and 19 are rejected under 35 USC 102(e) as being anticipated by Bezos et al. (US Pat. 6,029,141).
5. Bezos et al. teaches (independent claims 1 and 14) a method and apparatus for facilitating and tracking personal referrals, comprising (col. 2 lines 19-47): generating a unique identifier, a *unique* associate ID (col. 2 line 42), for the pairing of an individual (col. 2 line 21) and one offer to become an associate; sending to said individual an electronic-mail message that contains a web page (col. 2 lines 23-24) whose address or contents include said unique identifier or a transformation thereof;

providing in said web page instructions for building a website with referral links (col. 2 line 46), which reads on "providing in said web page a means of inputting the electronic-mail address of persons whom said individual wishes to refer"; and providing in said web page a means (the "No" button at the bottom of Fig. 3c) of opting out of receiving all such an electronic-mail messages.

6. Bezos et al. also teaches at the citations given above claims 2, 7, 8, 11 and 19.
7. Claims 3, 10, 12, 13, 15 and 20 are rejected under 35 USC 103(a) as being obvious over Bezos et al.
8. Bezos et al. does not teach (claims 3 and 15) determining if the individual has previously been sent an electronic-mail message about the offer. However, because Bezos et al. does teach that scrutiny of associate applications is important to eliminate undesirable applicants (col. 9 lines 46-49), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to determine if the individual has previously been sent an electronic-mail message about the offer.
9. Bezos et al. does not teach (claims 12, 13 and 20) determining if the offer is still valid. Since there would be no point in distributing invalid offers, it would be obvious to determine if a prospective offer were still valid.
10. Bezos et al. does not teach (claim 10) opting out of one or more categories of offers. Because the reference teaches a system of specialist referrals (col. 3 lines 10-19), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add to the teachings of Bezos et al. opting out of one or more categories of offers, where the offer categories are the classes of goods (e.g., cars) for which one could become an associate.
11. Claims 4-6 and 16-18 are rejected under 35 USC 103(a) as being obvious over Bezos et al. in view of Poulton et al.
12. Bezos et al. does not teach determining whether said individual had previously opted out. However, Poulton et al. discloses this feature at col.10, lines 8-19. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to include the "opting out" feature as taught by Poulton et al. into the referral system of Bezos et al. "to alleviate the anger ... of recipients barraged by unwanted and irrelevant e-mail" (Poulton et al., col. 3 lines 55-60).

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 703-308-3331. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 703-746-5536.
14. The examiner's supervisor, Eric Stamber, can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.
15. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.

12 February 2004

Donald L. Champagne
Examiner
Art Unit 3622